

Exhibit F

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

KIM ALLEN, LAINIE RIDEOUT AND)
KATHLEEN HAIRSTON, ON BEHALF)
OF THEMSELVES, ALL OTHERS)
SIMILARLY SITUATED, AND THE)
GENERAL PUBLIC,)

Plaintiffs,)

vs.)

SIMILASAN CORPORATION,)

Defendant.)

No. 3:12-cv-376-BTM-BGS

DEPOSITION OF KATHLEEN HAIRSTON

March 14, 2014

Diana L. Porter, CSR No. 12729
372257

40
YEARS

BARKLEY
Court Reporters
barkley.com

(310) 207-8000 Los Angeles
(916) 922-5777 Sacramento
(818) 702-0202 Woodland Hills
(516) 277-9494 Garden City

(415) 433-5777 San Francisco
(408) 885-0550 San Jose
(212) 808-8500 New York City
(914) 510-9110 White Plains

(949) 955-0400 Irvine
(760) 322-2240 Palm Springs
(347) 821-4611 Brooklyn
(312) 379-5566 Chicago

(858) 455-5444 San Diego
(951) 686-0606 Riverside
(518) 490-1910 Albany
(702) 366-0500 Las Vegas

+33 1 70 72 65 26 Paris

+971 4 8137744 Dubai

+852 3693 1522 Hong Kong

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

KIM ALLEN, LAINIE RIDEOUT AND)
KATHLEEN HAIRSTON, ON BEHALF)
OF THEMSELVES, ALL OTHERS)
SIMILARLY SITUATED, AND THE)
GENERAL PUBLIC,)

Plaintiffs,)

vs.)

SIMILASAN CORPORATION,)

Defendant.)
_____)

No. 3:12-cv-376-BTM-BGS

VIDEOTAPED DEPOSITION OF KATHLEEN HAIRSTON,
taken on behalf of the defendant, at University of
Phoenix, 3110 E. Guasti Road, 3rd Floor, Ontario,
commencing at 10:51 a.m., Friday, March 14, 2014, before
Diana L. Porter, Certified Shorthand Reporter No. 12729.

11:30 1 A Oh, no, sir.

11:30 2 Q Okay. No -- nothing involving medicine?

11:30 3 A No.

11:30 4 Q Okay. Anything to do with legal?

11:30 5 A No, sir.

11:30 6 Q All right. Have you purchased homeopathic
11:30 7 products before today?

11:30 8 A Yes.

11:30 9 Q All right. And when did you start doing
11:30 10 that?

11:30 11 A I don't remember the exact date.

11:30 12 Q Well, give me a time frame. Ten years
11:30 13 ago? Twenty years ago?

11:30 14 A Oh, no. No.

11:30 15 Q How long ago?

11:30 16 A Maybe within the last three to five years.

11:31 17 Q And why did you begin to purchase
11:31 18 homeopathic products?

11:31 19 A Believed they were safer.

11:31 20 Q And what did you base that belief on?

11:31 21 A Packaging.

11:31 22 Q Anything else?

11:31 23 A Advertising.

11:31 24 Q When you say --

11:31 25 And advertising.

11:31 1 A Mm-hmm.

11:31 2 Q Okay. So, tell me about safer than what?

11:31 3 A Traditional over-the-counter medicines.

11:31 4 Q Was there something that spurred you to

11:31 5 think I'm not happy with traditional

11:31 6 over-the-counter medications, so I need to find

11:31 7 something safer?

11:32 8 A Not one particular thing.

11:32 9 Q Well, how about several things? I mean,

11:32 10 what, if anything?

11:32 11 A It appeared from the advertising and the

11:32 12 packaging I read that it seemed to be a more

11:32 13 natural, less harmful.

11:32 14 Q Had you been using over-the-counter

11:32 15 pharmaceuticals before you began purchasing

11:32 16 homeopathic?

11:32 17 A Yes.

11:32 18 Q All right. For what types of conditions

11:32 19 would you buy an over-the-counter pharmaceutical?

11:32 20 A Allergies.

11:32 21 Q Now, you were familiar with allergy

11:32 22 medication; correct?

11:32 23 A Yes.

11:32 24 Q All right. So, did you ever -- were you

11:32 25 ever treated by a healthcare professional for an

11:43 1 products other than the ones we've just --

11:43 2 A When?

11:43 3 Q Since the summer of 2013 when the doctors
11:43 4 told you to take -- since the tear-duct-plugs
11:43 5 procedure didn't work --

11:43 6 A Oh.

11:43 7 Q -- and then you testified that they told
11:43 8 you to take some over-the-counter products. Is that
11:44 9 not correct?

11:44 10 A That's correct.

11:44 11 Q Okay. So, did you take any other products
11:44 12 other than Systane, Clear Eyes, GenTeal, Visine, or
11:44 13 Natural Tears?

11:44 14 A Not that I recall.

11:44 15 Q All right. Did you take any homeopathic
11:44 16 products for your dry eyes?

11:44 17 A When?

11:44 18 Q Subsequent to the tear -- the
11:44 19 tear-duct-plug procedures not working.

11:44 20 A No.

11:44 21 Q All right. When did you take the
11:44 22 homeopathic product for the dry eye?

11:44 23 A Prior to 2012.

11:44 24 Q All right. And why did you start with the
11:44 25 homeopathic product?

11:44 1 A Labeling and advertising.

11:44 2 Q Tell me specifically what did you see on
11:44 3 the label that when you were walking -- let me back
11:44 4 up for a second.

11:44 5 I assume you were in the drugstore. Is
11:44 6 that a fair assumption?

11:44 7 A Yes, sir.

11:44 8 Q And you're walking down the aisle;
11:44 9 correct?

11:44 10 A Yes, sir.

11:44 11 Q And you're --

11:44 12 And -- and the aisle in the drugstore has
11:44 13 eye relief or some -- something like that; correct?

11:44 14 A Yes.

11:44 15 Q And they have several different types of
11:45 16 packages; correct?

11:45 17 A Yes.

11:45 18 Q All right. And they have --

11:45 19 Did they have the over-the-counter
11:45 20 products that we just discussed like Systane, Clear
11:45 21 Eyes, GenTeal, Visine, Natural Tears?

11:45 22 A I don't remember.

11:45 23 Q But they have --

11:45 24 Was it --

11:45 25 So, they had some, some products there?

11:45 1 A Yes, sir.

11:45 2 Q The homeopathics weren't the only
11:45 3 products; correct?

11:45 4 A Yes, sir.

11:45 5 Q All right. So, there were some
11:45 6 over-the-counter products there as well; correct?

11:45 7 A Yes, sir.

11:45 8 Q All right. So, what was it that had you
11:45 9 decide to pick the homeopathic product?

11:45 10 A The labeling --

11:45 11 Q Specifically --

11:45 12 A -- packaging.

11:45 13 Q I'm sorry. You said labeling and
11:45 14 packaging?

11:45 15 A Yes.

11:45 16 Q What on the label?

11:45 17 MS. MINELLI: Objection. Vague and
11:45 18 ambiguous with respect to the specific homeopathic
11:45 19 product that counsel's inquiring about.

11:45 20 BY MR. HERLING:

11:45 21 Q Which homeopathic product -- were there
11:45 22 more than one?

11:45 23 A Not that I recall.

11:45 24 Q There was only one product?

11:45 25 MS. MINELLI: Same objection.

11:45 1 BY MR. HERLING:

11:45 2 Q Only one homeopathic product on the shelf
11:45 3 relating to dry eye?

11:45 4 A Not that I re- --

11:46 5 I don't remember.

11:46 6 Q All right. So, you don't remember if
11:46 7 there was more than one. Well, let me ask you this:
11:46 8 Do you remember if there was Similasan on the -- on
11:46 9 the shelf?

11:46 10 A Yes, sir.

11:46 11 Q Why do you remember that?

11:46 12 A The packaging.

11:46 13 Q And what was it in the packaging that you
11:46 14 recall?

11:46 15 A Or labeling, excuse me.

11:46 16 Q Yeah. What was --

11:46 17 A Or packaging, I'm sorry, the outside box,
11:46 18 packaging.

11:46 19 Q Okay. What was it that you don't remember
11:46 20 anything but you remember this? What was it about
11:46 21 it that made you remember this?

11:46 22 A Physician-recommended.

11:46 23 Q Okay.

11:46 24 A Sa- -- homeopathic, safer.

11:46 25 Q It said safer on the label?

11:46 1 A Maybe not that exact word, but
11:46 2 homeopathic, physician-recommended --
11:46 3 Q Okay.
11:46 4 A -- relief.
11:46 5 Q Okay. Did --
11:46 6 Was there another homeopathic product that
11:46 7 had a label that said those things?
11:46 8 A Not that I recall.
11:46 9 Q You don't recall?
11:46 10 A I don't recall.
11:46 11 Q All right. So, you recall Similasan?
11:46 12 A Yes, sir.
11:46 13 Q When did you first purchase a Similasan
11:46 14 product?
11:46 15 A I don't remember the exact dates.
11:46 16 Q Well, give me a general time frame.
11:46 17 You've already told me it's before you went to get
11:47 18 tear-duct-plug procedure; correct?
11:47 19 A Yes, sir.
11:47 20 Q All right. So, did you read the label?
11:47 21 A Yes, sir.
11:47 22 Q You read it very closely?
11:47 23 A Or the packaging.
11:47 24 Q The packaging?
11:47 25 A The la- -- the box.

11:57 1 MS. MINELLI: Okay.

11:57 2 MR. HERLING: Did she not verify these?

11:57 3 MS. MINELLI: Oh, I actually have
11:57 4 verifications.

11:57 5 MR. HERLING: Okay.

11:57 6 MS. MINELLI: She did sign them. We just
11:57 7 haven't gotten them to your office yet.

11:57 8 MR. HERLING: Fine. So, if I asked her
11:57 9 that she signed them under oath --

11:57 10 MS. MINELLI: Yes.

11:57 11 MR. HERLING: -- you're not going to
11:57 12 object because it's not here? Okay.

11:57 13 Q Have you taken a look at these?

11:57 14 A Briefly.

11:57 15 Q Okay. Do you remember responding to these
11:57 16 questions?

11:57 17 A Generally, yes.

11:57 18 Q Okay. All right. Take a look at

11:57 19 Interrogatory Number 1.

11:57 20 A Uh-huh.

11:57 21 Q And the question, in essence, is when did
11:57 22 you buy the products.

11:57 23 A Mm-hmm.

11:57 24 Q And it says starting in or around 2009,
11:58 25 and continuing until 2010, you purchased the

11:58 1 products as needed, approximately two times per
11:58 2 year, once in March or April and once in September
11:58 3 or October. Plaintiff typically purchased the
11:58 4 products at Target and/or at Vons stores. Did I
11:58 5 read that correctly?

11:58 6 A Yes, sir.

11:58 7 Q All right. Is that -- is that answer
11:58 8 accurate?

11:58 9 A Yes, sir.

11:58 10 Q All right. So, you --

11:58 11 Does that refresh your memory now that you
11:58 12 began purchasing the Similasan products in '09
11:58 13 through 2010?

11:58 14 A Yes, sir.

11:58 15 Q Did you purchase any products after 2010?

11:58 16 MS. MINELLI: Objection. Vague and
11:58 17 ambiguous with respect to the term products.

11:58 18 BY MR. HERLING:

11:58 19 Q Well, since the interrogatories define it,
11:58 20 I would assume that we all were using that as the
11:58 21 definition. But if you want me to read it, we can
11:58 22 do that. But we can go through it. We'll go
11:58 23 through each and every product.

11:58 24 So, you purchased allergy relief; is that
11:58 25 right?

13:26 1 Q Okay. And when did you determine that the
13:26 2 product didn't perform?
13:26 3 A After I used it.
13:26 4 Q The first time?
13:26 5 A I don't recall.
13:26 6 Q Well, you bought it in 2009?
13:26 7 A Mm-hmm.
13:27 8 Q And you used it in March and April?
13:27 9 A Right.
13:27 10 Q And you said it didn't perform; is that
13:27 11 right?
13:27 12 A Yes.
13:27 13 Q None of the products provided any relief
13:27 14 at all?
13:27 15 A I don't recall.
13:27 16 Q All right. What's your definition of
13:27 17 didn't perform?
13:27 18 A Based upon the labeling and packaging, I
13:27 19 relied upon that.
13:27 20 Q Well, let's go through that, then. Pull
13:27 21 out -- let's go to --
13:27 22 A Okay.
13:27 23 Q -- 6. All right. These were the labels
13:27 24 that were in existence in April of two -- during the
13:27 25 period of time you brought the product?

13:27 1 A Yes, sir.

13:27 2 Q And 6A is Allergy Eye Relief?

13:27 3 A Mm-hmm.

13:27 4 Q What didn't perform? What -- how did the
13:27 5 product not perform?

13:28 6 A Relieving the symptoms that are listed on
13:28 7 here.

13:28 8 Q The itching burning and --

13:28 9 A Watering.

13:28 10 Q -- watering --

13:28 11 A Mm-hmm.

13:28 12 Q -- associated with allergies?

13:28 13 A Mm-hmm.

13:28 14 Q Okay. And so it didn't work when you
13:28 15 bought it in '09 in March or April; right?

13:28 16 A To my best recollection.

13:28 17 Q And then, you bought it again in September
13:28 18 and October?

13:28 19 A As I -- my best recollection.

13:28 20 Q Why did you buy something that didn't work
13:28 21 the first time?

13:28 22 A I may not have used the entire bottle. I
13:28 23 stated my husband used some of it, too.

13:28 24 Q So, you thought maybe you didn't follow
13:28 25 the directions properly?

13:28 1 MS. MINELLI: Misstates testimony.

13:28 2 BY MR. HERLING:

13:28 3 Q I'm asking a different question.

13:28 4 A Pardon?

13:28 5 Q Did you think you didn't follow the

13:28 6 directions properly and that's why it didn't work?

13:28 7 A No.

13:28 8 Q So -- so what is it about not using the

13:28 9 entire bottle? Does it say anywhere on here you're

13:29 10 supposed to use it, use the entire bolts?

13:29 11 A No.

13:29 12 Q All right.

13:29 13 A Not to my knowledge.

13:29 14 Q Oh. And, in fact, doesn't it say that

13:29 15 stop use and ask a doctor if the symptoms persist

13:29 16 more than 72 hours?

13:29 17 A Yes, sir.

13:29 18 Q Did you use it for more than 72 hours?

13:29 19 A I don't recall.

13:29 20 Q So, it didn't work in March 2009. So,

13:29 21 then, you bought it again in September of 2009; is

13:29 22 that correct?

13:29 23 A Yes.

13:29 24 Q All right. Did it work then?

13:29 25 A No.

13:29 1 Q All right. And do you have any

13:29 2 idea -- well, strike that.

13:29 3 And then, you waited. March of 2010 --

13:29 4 correct? -- you bought it again?

13:29 5 A Yes, sir.

13:29 6 Q Okay. So, why did you buy a product that

13:29 7 didn't work twice now?

13:29 8 A I don't know how many times I bought the

13:29 9 product, as I stated earlier.

13:29 10 Q Well, ma'am, I'm sorry, but your

13:29 11 interrogatory doesn't say that. Your interrogatory

13:29 12 says under oath -- and this is all I can go on -- is

13:30 13 that you bought it approximately two times a year

13:30 14 for --

13:30 15 MS. MINELLI: She bought the products,

13:30 16 plural, and the products, plural, as defined in

13:30 17 these interrogatories.

13:30 18 BY MR. HERLING:

13:30 19 Q Oh, all right. So -- so, in other words,

13:30 20 you're --

13:30 21 Well, I'm going to go through all -- well,

13:30 22 strike that.

13:30 23 You don't remember --

13:30 24 Well, put it this way. Did you buy the

13:30 25 Allergy Eye Relief more than once?

13:30 1 A I don't recall.

13:30 2 Q All right. And you didn't used the entire
13:30 3 bottle?

13:30 4 A I may not have.

13:30 5 Q All right. And the symptoms persisted for
13:30 6 more than 72 hours?

13:30 7 A I don't recall.

13:30 8 Q Well, they didn't go away, did they, your
13:30 9 symptoms?

13:30 10 MS. MINELLI: Vague and ambiguous with
13:30 11 respect to the time frame of the question.

13:30 12 BY MR. HERLING:

13:30 13 Q Well, all right. You purchased a product.
13:30 14 You used it. And the symptoms persisted for more
13:30 15 than 72 hours; is that not correct?

13:30 16 MS. MINELLI: Assumes -- misstates
13:30 17 client's testimony.

13:30 18 BY MR. HERLING:

13:30 19 Q Well, then it worked?

13:30 20 MS. MINELLI: Assumes facts.

13:30 21 THE DEPONENT: I don't recall.

13:30 22 BY MR. HERLING:

13:30 23 Q Well, the symptoms either persisted or
13:30 24 they resolved. Isn't that fair? They don't -- it's
13:31 25 one way or the other.

13:31 1 MS. MINELLI: You can answer.

13:31 2 Vague and ambiguous with respect to the --
13:31 3 the time frame of the question.

13:31 4 BY MR. HERLING:

13:31 5 Q When you bought the product in '09, I
13:31 6 assume, or 2010, you --

13:31 7 So, you're telling me you don't know
13:31 8 whether you bought this product in '09 or 2010; is
13:31 9 that right?

13:31 10 A That's correct.

13:31 11 Q Okay. But you know it didn't work; right?

13:31 12 A That's correct.

13:31 13 Q And did you use it for more than 72 hours?

13:31 14 A I don't remember.

13:31 15 Q Well, then, how did you know it didn't
13:31 16 work?

13:31 17 MS. MINELLI: Objection to the extent this
13:31 18 question is vague, ambiguous with respect to the
13:31 19 time frame of the knowledge within which you're
13:31 20 inquiring about from my client.

13:31 21 BY MR. HERLING:

13:31 22 Q Well, at some point, you decided to bring
13:31 23 a lawsuit; correct?

13:31 24 A Yes.

13:31 25 Q And at some point, you decided to sue my

13:43 1 supposed to be working. Inactive is probably the
13:43 2 solution or however they're -- they're -- get into
13:43 3 to your body or however they're going to get to you.

13:43 4 Q Okay.

13:43 5 A So --

13:43 6 Q So, you knew the difference when you
13:43 7 bought this?

13:43 8 A Yeah.

13:43 9 Q Okay. By the way, I didn't ask you this.

13:43 10 Do you have in your mind what homeopathy is,
13:43 11 homeopathic medication?

13:43 12 A It just --

13:43 13 Do I know the definition?

13:43 14 Q Well, or, yeah, just what you understand
13:43 15 it to be.

13:43 16 A I --

13:43 17 To me it sounds alternative medicine,
13:43 18 safe, chemical-free.

13:44 19 Q Okay. Why do you say it's safe? What do
13:44 20 you base that on.

13:44 21 A That, well, that the word homeo means the
13:44 22 same. So I -- would lead me to believe that it's --
13:44 23 it's the same.

13:44 24 Q The same as --

13:44 25 A Maybe whatever's in your body or --

DEPOSITION OFFICER'S CERTIFICATE

STATE OF CALIFORNIA }
 } ss.
COUNTY OF LOS ANGELES. }

I, Diana Porter, hereby certify:

I am a duly qualified Certified Shorthand Reporter in the State of California, holder of Certificate Number CSR 12729 issued by the Court Reporters Board of California and which is in full force and effect. (Fed. R. Civ. P. 28(a)).

I am authorized to administer oaths or affirmations pursuant to California Code of Civil Procedure, Section 2093(b) and prior to being examined, the witness was first duly sworn by me. (Fed. R. Civ. P. 28(a), 30(f)(1)).

I am not a relative or employee or attorney or counsel of any of the parties, nor am I a relative or employee of such attorney or counsel, nor am I financially interested in this action. (Fed. R. Civ. P. 28).

I am the deposition officer that stenographically recorded the testimony in the foregoing deposition and the foregoing transcript is a true record

/ / /

1 of the testimony given by the witness. (Fed. R. Civ. P.
2 30(f)(1)).

3 Before completion of the deposition, review of
4 the transcript [] was [~~xx~~] was not requested. If
5 requested, any changes made by the deponent (and
6 provided to the reporter) during the period allowed, are
7 appended hereto. (Fed. R. Civ. P. 30(e)).

8
9 Dated: MAR 28 2014,

10 
11 _____
12
13
14
15
16
17
18
19
20
21
22
23
24
25